

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

CARL SANDERS,

Plaintiff,

v.

SUSAN DONAHUE, and JOHN DOE
DONAHUE; MERLE FERGUSON and JANE
DOE FERGUSON; ANTHONY PISTILLI and
JANE DOE PISTILLI; SIDONIA CAPITAL
CORPORATION, a foreign corporation doing
business in the State of Washington; TJJR
ENTERPRISES, INC., a Nevada corporation
doing business in the State of Washington;
COMPOSITE HOLDINGS, INC., a Nevada
corporation doing business in the State of
Washington; NATAVAN, INC., a Nevada
corporation doing business in the State of
Washington ,

Defendants.

Case No. C04-5870FDB

SECOND ORDER TO SHOW CAUSE

The Complaint herein alleges breach of contract, among other causes of action, and arises as follows:

On June 7, 2003, Defendants Susan Donahue and TJJR Enterprises, Inc. Executed a Promissory Note in the amount of \$375,000.00 in exchange for those monies being remitted by the Plaintiff to those Defendants, which was due and payable, both principal and interest, on or before December 7, 2003.

(Complaint, ¶ 3.5) Plaintiff alleges that he "... performed his end of the agreement, by remitting the funds, by way of a cashier's check, from his bank in Pierce County, Washington, to the designated banking account in the State of Nevada." Plaintiff alleges that he has received no payment.

Plaintiff asserts that this Court has diversity jurisdiction and states in his jurisdictional allegations that he is a resident of Enumclaw, County of King, State of Washington. Plaintiff states that the defendants are residents of the State of Nevada, with the exception that Defendant Anthony Pistilli [and, presumably his wife Jane Doe Pistilli] are residents of Tacoma, Washington.

1 Based on Plaintiff's assertions, it appeared that there was not complete diversity and that this
2 court lacked subject matter jurisdiction. Therefore, Plaintiff was ordered to show cause why this
3 cause of action should not be dismissed for lack of diversity jurisdiction.

4 Plaintiff responds to the show cause order asserting now that Defendant Pistilli was a resident
5 of Sherman Oaks, California at the time of service of process. Plaintiff attaches a document entitled
6 "Declaration of Service of Summons and Complaint for Monies Owed ... , " which purports to
7 demonstrate service, on March 10, 2005, of Anthony Pistilli and Jane Doe Pistilli by leaving the
8 above-described documents with "ANTHONY PISTILLI, M/C, BRN HAIR AND EYES, 45-50,
9 5'9", 180 LBS."


10 There are still insufficient facts upon which to appropriately base this Court's jurisdiction
11 over this cause of action. The service of the Defendant Pistilli in Sherman Oaks, California does not
12 necessarily demonstrate that Pistilli is domiciled in Sherman Oaks, California.

13 Moreover, it is not at all clear where this claim arose. Plaintiff asserts that he obtained a
14 cashier's check from his bank in Pierce County, Washington, which he remitted to an account in the
15 State of Nevada, but this alone is not dispositive nor persuasive that the cause arose here.

16 Thus, Plaintiff has failed to demonstrate that this Court has jurisdiction or that venue in this
17 District is proper.

18 ACCORDINGLY, IT IS ORDERED: Plaintiff shall show cause by July 15, 2005 why this
19 cause of action should not be dismissed or transferred to another district; failure to respond shall
20 result in dismissal of this cause of action.

21 DATED this 29th day of June, 2005.

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23 FRANKLIN D. BURGESS
24 UNITED STATES DISTRICT JUDGE
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